

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE
John Adams Courthouse
One Pemberton Square, Suite 1200
Boston, Massachusetts 02108-1705
(617) 725-8106; mass.gov/courts/appealscourt

**SUPERIOR COURT
BARNSTABLE, SS**

FILE

JUN 17 2019

Dated: June 13, 2019

Sally H. Nelson Clerk

Barnstable Superior Court Dept.
Clerk for Criminal Business
Court House - 3195 Main Street
Barnstable, MA 02630

RE: No. 2019-P-0043
Lower Court No: 1372CR00080; 1472CR00189

COMMONWEALTH vs. ROBERT W SHANAHAN

NOTICE OF DOCKET ENTRY

Please take note that, with respect to the Status Report filed for Robert W Shanahan by Attorney Valerie DePalma. (Paper #5), on June 13, 2019, the following order was entered on the docket:

RE#5 and #6: The status report is accepted for filing. Appellate proceedings stayed to 7/15/19. Status report due then regarding disposition of pending motion for new trial. *Notice/Attest

IMPORTANT INFORMATION ABOUT ELECTRONICALLY FILING IN THE APPEALS COURT

- Every attorney with an appeal pending in the Appeals Court must have an account with eFileMA.com. Registration with eFileMA.com constitutes consent to receive electronic notification from the Appeals Court and e-service of documents. Self-represented litigants are encouraged, but not required, to register for electronic filing.
- All documents may, and some must, be electronically filed with the Appeals Court using eFileMA.com. No paper original or copy of any e-filed document is required.
- E-filing impounded documents or e-filing by self-represented litigants is voluntary.
- Additional information is located on our Electronic Filing web page: <http://www.mass.gov/courts/court-info/appealscourt/efiling-appeals-faq-gen.html>

Very truly yours,
Joseph Stanton, Clerk

To: Elizabeth Anne Sweeney, A.D.A., Valerie A. DePalma, Esquire, Barnstable Superior Court Dept.

SUPERIOR COURT
BARNSTABLE, SS

Filed

APR 22 2019

Clerk

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

NO. 2013-

80

Settled by [Signature]
2019-189

COMMONWEALTH

v.

ROBERT SHANAHAN

COMMONWEALTH'S MEMORANDUM IN RESPONSE
TO THE DEFENDANT'S THIRD MOTION
TO AMEND HIS NEW TRIAL MOTION

The defendant's motion makes much of the fact that Peter De Camp did not tell emergency rescue personnel or hospital personnel that the individual who attacked him was the defendant, Robert Shanahan. (D.Mot.3) The defendant asserts that the records show that the dispatcher and radio transmissions refer to the attacker as "person" "white male" and "the guy." (D.Mot.2)

Trial Exhibit Five is the audio of the 911 call between the victims and the dispatch center. The victims called 911 immediately, as the attack was ongoing. The Commonwealth respectfully requests this Honorable Court listen to the audio of the 911 call that was introduced into evidence at trial. The prosecutor's opening clearly summarizes the evidence:

Peter DeCamp is now free from him. He runs into the house. They slam the door shut, and they call 911. And you'll have the opportunity to hear Colleen Cunningham's 911 call. And I want you to listen to that very carefully. They describe who it is. And Rob's name comes up. And you'll hear testimony with respect to the identification of Rob as Rob Shanahan and how that comes about. They know him as an acquaintance. You'll hear that they tell the police that, "It's Rob. We don't know what his last name is." Colleen Cunningham: "Wait, let me make a phone call to the friend of a friend to find out some more with respect to what his last name is." (3/240-241)

The victims reported to police on the 911 call that the assailant was "Rob." They reported further information once it became known to them. Admittedly the radio transmissions between the police do not indicate "Rob," and the medical records do not indicate "Rob." There is no reason for the victim's medical records to list the name of the individual who attacked him, this does not add any information to the defendant's claim. Including the defendant's name on the ambulance records and hospital records for the victim adds nothing. The fact that the victims initially reported "Rob" to the 911 dispatcher is more relevant and accurate than the medical records or audio between two responding police officers.

CONCLUSION

For the foregoing reasons, the Commonwealth respectfully requests that this Honorable Court deny the relief requested and affirm the defendant's conviction.

Respectfully submitted,

Michael D. O'Keefe
District Attorney

/s/ Elizabeth A. Sweeney
Elizabeth A. Sweeney
Assistant District Attorney
BBO# 681414
Cape and Islands District
3231 Main Street
P.O. Box 455
Barnstable, MA 02630
(508) 362-8113

April 19, 2019